

Date of decision: 7th December, 1995

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Mrs. K.A. Mehta for the petitioner  
Mr. D.A. Bhamania for the respondents.

ORAL JUDGMENT:

Heard the learned counsel for the parties. By this petition the petitioner has challenged the legality, validity and correctness of the order dated 21-3-1994 passed by the Collector, Valsad, submitted along with the writ petition at annexure-J. In pursuance of the scheme of the State of Gujarat giving higher pay-scale on completion of nine years' service, the petitioner's pay was fixed accordingly vide order dated 15-1-1992 of the Collector, Valsad. The petitioner was given the benefit of higher pay-scale with effect from 1-6-1987. Under the impugned order, by cancelling the aforesaid order, the petitioner was ordered to be given the benefit of higher pay-scale with effect from 9-6-1989.

2. In this case rule was issued on 5-9-1995 and interim relief in terms of para 13(C) has also been granted in favour of the petitioner. In para 13(C) the petitioner prayed for interim relief that respondent No.2 be restrained from implementing the order dated 21-3-1994 annexure-J and be further directed not to reduce the pay of the petitioner and recover the amount of higher pay scale given to him from 1-6-1987 to 9-6-1989 and be further directed to continue to give the petitioner the higher pay-scale fixed by the Collector, Valsad, vide order dated 15-1-1992 annexure-E. In view of the aforesaid interim order, the order dated 21st March, 1994 has not been given effect to.

3. One of the grievances made by the petitioner in the petition is that the order dated 21st March, 1994 has been passed without hearing the petitioner, and in violation of the principles of natural justice. Mrs. Mehta, learned counsel for the petitioner contended that the order dated 21st March, 1994 ensues civil consequences. The petitioner has been given the higher pay-scale from 1-6-1987 which has been reduced to lower pay-scale for the period from 1-6-1987 to 9-6-1989 and as such he will suffer heavy monetary loss. Though the order dated 21st March, 1994 is an administrative order, nevertheless it results in civil consequences and as such it was incumbent upon the respondent -Collector, Valsad to give notice and afford an opportunity to the petitioner to make his submissions. Principles of natural justice are applicable to administrative actions. The respondents have not filed reply to the writ petition and the factual averments as made therein stand uncontroverted. It is not the case of learned counsel for the respondents that the order dated 21st March, 1994 has been passed after giving an opportunity of hearing to the petitioner.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties. The order dated 21st March,1994 has resulted in reducing the pay of the petitioner. The petitioner was given the higher pay-scale from 1-6-1987, whereas by the said order he has been given the higher pay scale from 9-6-1989. It results in depriving the higher pay-scale to the petitioner from 1-6-1987 to 9-6-1989. The petitioner's case is that under the Government Resolution he is entitled to higher pay-scale from 1-6-1987. This right of the petitioner to have the higher pay-scale from 1-6-1987 has been denied to him without any notice and opportunity of hearing.

5. Though the order dated 21st March,1994 is an administrative order, but nevertheless it has resulted in serious civil consequences of loss of monetary benefits. I agree with the learned counsel for the petitioner that the principles of natural justice ought to have been followed by the authority before passing the said order. In view of the fact that this writ petition succeeds on this ground alone, I do not consider it necessary to call upon the parties to address on other points raised in the writ petition.

6. Learned counsel for the respondents submitted that in case this order is set aside only on the ground that the petitioner has not been afforded an opportunity of hearing, the respondents may be given liberty to consider the matter afresh after giving personal hearing to the petitioner. I fail to see any justification in the submission made by the learned counsel for the respondents. When this court allows the writ petition, finding a fault with the order of not following the principles of natural justice, it is always permissible to the authority to reconsider the matter and pass appropriate order after giving an opportunity of hearing to the petitioner.

7. In the result this writ petition is allowed. The order of the Collector dated 21st March,1994 annexure-J to the petition is quashed and set aside only on the ground that it has been passed without affording an opportunity of hearing to the petitioner. Rule made absolute accordingly with no order as to costs.

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